REMARKS

Claims 23 through 58, 60 through 80, and 86 through 130 are pending in this Application. Claims 82 through 85 have been canceled without prejudice or disclaimer. Claims 23, 40, 42 through 45, 55, 58, 72, 74, 75, 77 through 80, 96, 97, 99 through 102, 119, and 121 through 123 have been amended, and new claims 124 through 130 have been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the Abstract, FIGs. 6, 9, and 11, ¶¶ [0006], [0007], [0067], [0096], [0108], [0110], and [0102] through [0113] of the corresponding US Pub. No. 20050209927. Applicants submit that the present Amendment does not generate any new matter issue.

Telephonic Interview of July 2, 2010.

Applicants express appreciation for the Examiner's courtesy in granting and conducting a telephonic interview on July 2, 2010. During the interview, the Examiner indicated that the present claim amendments would overcome the rejections of record. It is with that understanding that the present Amendment is submitted.

(1) Claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, and 114 were rejected under 35 U.S.C. §103(a) for obviousness predicated upon *Airy et al.* (US 20020142780, "*Airy*") in view of *Chu et al.* (US 20020049853, "*Chu*").

In stating the rejection, the Examiner asserted that one having ordinary skill in the art would have been led to modify *Airy's* electronic content republishing wireless communication

device by including *Chu's* received file size, to resume the file transfer without starting form the beginning. Applicants respectfully traverse this rejection.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. §103(a). Specifically, independent claims 45, 58, and 80 include an upload data recipient and recite, *inter alia*: "tracking at the apparatus during the upload session received data packets and assembling a list of completely uploaded data **packet identifiers each of which uniquely identifies one corresponding data packet within the upload session**; and after an interruption occurs in the upload session, determining to transmit **the list of completely uploaded data packet identifiers from the apparatus** to the sender for transmitting to the apparatus each of the remaining packets that is not completely uploaded."

The inventions defined in independent claims 23 and 102 include an upload data sender and recite, *inter alia*: "after an interruption occurs in the upload session, receiving at the apparatus **a list of completely uploaded data packet identifiers each of which uniquely identifies one corresponding data packet within the upload session**; and reestablishing by the apparatus the upload session to upload to the recipient each of the remaining packets that is not completely uploaded."

The above-identified claim features are neither disclosed nor suggested by *Airy* or *Chu,* as acknowledged by the Examiner during the telephonic interview. In particular, when the packets arrive at the recipient in an order different from the order the sender uploaded the packets, and a failure occurs at the sender side (¶ [0102]), merely the size information as in *Chu* is insufficient to determine which packet was interrupted or lost. On the other hand, the recipient of the claimed inventions logs the list of completely received packet identifiers, and figures out the precise

interrupt/lost packet information to resume the upload. This is not possible in *Chu*, since *Chu* only asks for a total received file size from the recipient.

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir.1988). Applicants, therefore, submit that the imposed rejection of claims 23, 34, 35, 45, 51, 52, 58, 69, 70, 80, 91, 92, 102, 113, and 114 under 35 U.S.C. §103(a) for obviousness based on *Airy* in view of *Chu* is not factually or legally viable and, hence, solicit withdrawal thereof.

(2) Claims 24, 29, 30, 46 (presumably intending to include claim 48), 64, 65, 86, 87, 103, 108, and 109 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu* and *Brown et al.* (US 20020194205, "*Brown*").

(3) Claims 25 through 28, 46, 47, 60 through 63, 82 through 85, and 104 through 108 (presumably intending to include claim 107) were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu* and *McDonnell et al.* (US 7,257,386, "*McDonnell*").

(4) Claims 33, 37 through 42, 50, 53, 54, 56 (presumably intending to include claims 55 and 57), 68, 72 through 77, 90, 94 through 99, 112, and 116 through 121 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu* and *Kohno* (US 20030120802, "*Kohno*").

(5) Claims 32, 49, 67, 89, and 112 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu* and *Squibbs et al.* (US 20040198426, "*Squibbs*").

(6) Claims 36, 71, 93, and 115 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu* and *Kobayashi et al.* (WO 2003/026216, "*Kobayashi*").

(7) Claims 31, 66, 88, and 110 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu*, *Brown* and *Kohno*.

(8) Claims 43, 44, 78, 79, 100, 101, 122, and 123 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu*, *Kohno* and *Anderson* (US 2003/0084128, "*Anderson*").

(9) Claims 43, 44, 78, 79, 100, 101, 122, and 123 were rejected as obvious under 35 U.S.C. §103(a) based on *Airy* in view of *Chu*, *Kohno* and *Na et al* (US 2006/0129631, "*Na*").

Each of the above-identified rejections (2) through (9) under 35 U.S.C. §103(a) is respectfully traversed.

Specifically, claims 24 through 33, and 36 through 44 depend from independent claim 23; claims 46 through 50, and 53 through 57 depend from independent claim 45; claims 60 through 68, and 71 through 79 depend from independent claim 58; claims 82 through 90, and 93 through 101 depend from independent claim 80; and claims 103 through 112, and 115 through 123 depend from independent claim 102. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of independent claims 23, 45, 58, 80, and 102 under 35 U.S.C. §103(a) for obviousness predicated upon *Airy*. None of the additional references to *Brown, McDonnell, Kohno, Squibbs, Kobayashi, Anderson* and *Na* cures the previously argued deficiencies in *Airy*.

Kohno was said to describe a plurality of data packets, and an upload descriptor for determining if an interruption occurs in uploading and to enable the recipient to recover the content based upon the upload descriptor (p. 14, first paragraph of the Office Action). *Kohno*'s interruption is triggered by an error in a received packet or a lost packet (¶ [0074]). *Kohno* detects the error or the lost packet when playing the content in a real-time on-going manner.

Kohno simply does not "track received data packets and **assemble a list of completely uploaded data packet identifiers during the upload session at the recipient**". After an interruption occurs in the upload session, *Kohno* ***drops*** lost or error packets when the lost/error packets cannot be timely played in a **real-time** sequence (¶ [0074]), in order to receive and play the current/live packets real-time. *Kohno's* recipient does not take the time to "determine to transmit the list of completely uploaded data packet identifiers to the sender for transmitting to the recipient each of the remaining packets that is not completely uploaded."

Claim 44, the patentability of which is separately advocated, recites "uploading the remaining packets in accordance with one of a HTTP POST or a HTTP PUT technique, wherein the one of the HTTP POST or HTTP PUT technique includes uploading the remaining packets including header information comprising **a list of one or more packet identifiers of the remaining one or more packets**."

Anderson was said to apply the techniques of HTTP HEAD/POST/PUT. However, *Anderson* does not support for the **partial** HTTP POST/PUT that includes uploading the remaining packets including header information comprising **a list of one or more packet identifiers of the remaining one or more packets**. *Kohno* was said to provide "header information comprising **one or more bit ranges corresponding to a list of one or more packet identifiers of the remaining one or more packets**." However, the Real-time Transport Protocol (RTP) header in *Kohno* includes only marker bit information to allow video or audio data to be played in real time (¶ [0069]). *Kohno's* RTP header is not a HTTP POST/PUT header, and *Kohno's* RTP header does not contain information of **a list of one or more packet identifiers of the remaining one or more packets**.

Accordingly, even if the applied references were combined as proposed by the Examiner, and again Applicants do not agree that the requisite fact-based motivation has been established, the claimed inventions would not result. *See Uniroyal, Inc. v. Rudkin-Wiley Corp., supra,* Applicants therefore submit that the above-identified rejections (2) through (9) encompassing claims 24 through 33, 36 through 44, 46 through 50, 53 through 57, 60 through 68, 71 through 79, 82 through 90, 93 through 101, 103 through 112, and 115 through 123 under 35 U.S.C. §103(a) are not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the foregoing, it is apparent that the imposed rejections have been overcome, and that all pending claims are in condition for allowance. Favorable consideration is therefore solicited. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at 703-822-7186 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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